

STATE OF TEXAS

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CONTRACT FOR SERVICES

COUNTY OF DALLAS

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This Contract for Services ("Contract") is made and entered into as of the 1st day of October, 2014 by and between the Town of Addison, Texas (the "City") and LaunchAbility ("LaunchAbility").

WITNESSETH:

WHEREAS, LaunchAbility is a private, non-profit organization established under the laws of the State of Texas for the purpose of providing services to children and adults with disabilities since 1963; and

WHEREAS, LaunchAbility provides and will continue to provide "early childhood intervention" to citizens of the City and of the region surrounding the City through speech, physical, developmental and other specialized behavioral therapies; and,

WHEREAS, LaunchAbility provides and will continue to provide "supported employment services" to citizens of the City and of the region surrounding the City through occupational training for adults with mental retardation, job matching assistance and job performance support for these individuals; and

WHEREAS, LaunchAbility will provide these services in a manner consistent with the Town of Addison's non-profit agency reporting requirements by submitting quarterly client service reports, regular organizational financial reports, and updates on City clients served by the agency as well as identifying a staff person with LaunchAbility to be designated as a liaison to the City through which all reporting and communication shall flow; and

WHEREAS, the success or failure of LaunchAbility's purposes and objectives has a direct impact on the health, comfort, and welfare of the citizens of the City; and

WHEREAS, the City has full power of local self government, has authority to contract with other persons, has authority to adopt regulations that are for the good government, peace, and order of the City, has authority to enforce laws reasonably necessary to protect the public health, has authority to provide public health services as set forth in Chapter 121, Tex. Health and Safety Code and other law, and to create a municipal development corporation pursuant to Chapter 379A, Tex. Loc. Gov. Code, to provide job training and to foster economic opportunity and job generation, and the services provided by LaunchAbility hereunder are in the public interest and are for, constitute and serve a public purpose in promoting the health and welfare of the citizens of the City.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the benefits flowing to each of the parties hereto, and other good and valuable consideration, the Town of Addison, Texas and LaunchAbility do hereby contract and agree as follows:

I. TERM

The term of this Contract shall be for a period of one year from the 1st day of October, 2014 through the 30th day of September, 2015, except as otherwise provided for herein.

II. SERVICES

LaunchAbility covenants and agrees that it shall:

(b) Provide “supported employment services” to citizens of the City and of the region surrounding the City through occupational training for adults with mental retardation, job matching assistance and job performance support for these individuals; and

(c) Use the funds paid to Launchability pursuant to this Contract for services provided to children and adults who receive services in Addison only; and

(d) Provide such services in a manner consistent with the Town of Addison's non-profit agency reporting requirements by submitting quarterly client service reports, regular organizational financial reports, and updates on City clients served by the agency as well as identifying a staff person with LaunchAbility to be designated as a liaison to the City through which all reporting and communication shall flow; and

(f) Provide services for clients that include career assessment; placement in jobs that match up their skills to the needs of the employers; on the job training; and ongoing support to ensure our clients' success; and

(g) Submit detailed quarterly financial statements and program results to the City within thirty (30) days after the end of the preceding quarter explaining all expenditures.

III. COMPENSATION

For the operation and provision of the services, projects and programs of LaunchAbility as described herein, the City shall pay LaunchAbility the sum of Five Thousand and No/100 Dollars (\$5,000.00). Such sum shall be paid on or before January 1, 2015, provided LaunchAbility is not then in default of this Contract.

IV. RESPONSIBILITY; INDEMNIFICATION

(a) LAUNCHABILITY AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES OR INJURIES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE

PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER BY LAUNCHABILITY OR BY ITS OFFICIALS, OFFICERS, EMPLOYEES, OWNERS, MEMBERS, AGENTS, SERVANTS, INVITEES, GUESTS, VOLUNTEERS, CONTRACTORS, SUBCONTRACTORS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE.

(b) ***INDEMNITY OWED BY LAUNCHABILITY.*** LaunchAbility covenants and agrees to **FULLY DEFEND, INDEMNIFY AND HOLD HARMLESS** the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas, individually or collectively, in both their official and private capacities (the Town of Addison, Texas and the elected officials, the officers, employees, representatives, and volunteers of the Town of Addison, Texas each being an “Addison Person” and collectively the “Addison Persons”), from and against any and all costs, claims, liens, harm, damages, losses, expenses, fees, fines, penalties, proceedings, judgments, actions, demands, causes of action, liability, and suits, of any kind and nature whatsoever made upon or incurred by any Addison Person, whether directly or indirectly, (the “Claims”), that arise out of, result from, or relate to: (1) the Services as described in Section II of this Contract; (2) representations or warranties by LaunchAbility under this Contract; and/or (3) any other act or omission under or in performance of this Contract by LaunchAbility, or any owner, officer, director, manager, employee, agent, representative, consultant, contractor, subcontractor, licensee, invitee, patron, guest, customer, or concessionaire of or for LaunchAbility, or any other person or entity for whom LaunchAbility is legally responsible, and their respective owners, officers, directors, managers, employees, agents, representatives, consultants, contractors, subcontractors, licensees, , invitees, patrons, guests, customers, and concessionaires. **SUCH DEFENSE, INDEMNITY AND HOLD HARMLESS SHALL AND DOES INCLUDE CLAIMS ALLEGED OR FOUND TO HAVE BEEN CAUSED IN WHOLE OR IN PART BY THE NEGLIGENCE OR GROSS NEGLIGENCE OF ANY ADDISON PERSON, OR CONDUCT BY ANY ADDISON PERSON THAT WOULD GIVE RISE TO STRICT LIABILITY OF ANY KIND.**

LaunchAbility shall promptly advise the City in writing of any claim or demand against any Addison Person or LaunchAbility related to or arising out of LaunchAbility' activities under this Contract and shall see to the investigation and defense of such claim or demand at LaunchAbility' sole cost and expense. The Addison Persons shall have the right, at the Addison Persons' option and at own expense, to participate in such defense without relieving LaunchAbility of any of its obligations hereunder.

The provisions of this defense, indemnity, and hold harmless obligation, and any other defense, indemnity, and hold harmless obligation set forth in this Contract, shall survive the termination or expiration of this Contract.

V. TERMINATION

This Contract may be canceled and terminated by either party at any time and for any reason upon giving at least thirty (30) days written notice of such cancellation and termination to the other party hereto. Such notice shall be sent certified mail, return receipt requested, and to the most

recent address shown on the records of the party terminating the Contract. The thirty (30) day period shall commence upon deposit of the said notice in the United States mail and shall conclude at midnight of the 30th day thereafter. In the event of such cancellation and termination and if LaunchAbility has failed at the time of such cancellation and termination to provide all of the services set forth herein, LaunchAbility shall refund to the City that portion of funds paid to LaunchAbility under the terms of this Contract in accordance with the following: Prorata funding returned to the City by LaunchAbility shall be determined by dividing the amount paid by the City under this Contract by 365 (the "daily rate"), and then multiplying the daily rate by the number of days which would have remained in the term hereof but for the cancellation or termination. Upon payment or tender of such amount, all of the obligations of LaunchAbility and the City under this Contract shall be discharged and terminated (except as otherwise provided herein, e.g., except for obligations and responsibilities as may survive termination or cancellation of this Contract as provided for in this Contract) and no action shall lie or accrue for additional benefit, consideration or value for or based upon the services performed under or pursuant to this Contract.

VI. CONFLICT OF INTEREST

(a) No officer or employee of the City shall have any interest or receive any benefit, direct or indirect, in this Contract or the proceeds thereof. This prohibition is not intended and should not be construed to preclude payment of expenses legitimately incurred by City officials in the conduct of the City's business. No officer or employee of LaunchAbility shall have any financial interest, direct or indirect, in this Contract or the proceeds thereof.

(b) For purposes of this section, "benefit" means anything reasonably regarded as an economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include contributions or expenditures made and reported in accordance with any law.

VII. ACCOUNTING

Prior to adopting its annual budget, LaunchAbility shall submit for the City's review a budget showing the use of the City's funds provided pursuant to this Contract, and LaunchAbility shall make such periodic reports to the City, as provided for herein, listing the expenditures made by LaunchAbility from the funds provided by the City. The approval of LaunchAbility' annual budget creates a fiduciary duty in LaunchAbility with respect to the funds provided by the City under this Contract.

The funds paid to LaunchAbility pursuant to this Contract shall be maintained in a separate account established for that purpose and may not be commingled with any other money. Funds received hereunder from the City may be spent for day to day operations, supplies, salaries and other administrative costs provided that such costs are necessary for the promotion and encouragement of the purposes for which the funds may be used as described herein.

LaunchAbility shall maintain complete and accurate financial records of all of its revenues, including, without limitation, each expenditure of revenue received pursuant to this Contract. By the thirtieth (30th) day after the close of each quarter (beginning with the quarter ending December 31, 2014, with the last quarter ending September 30, 2015), LaunchAbility shall provide the City the

following: (a) a detailed financial report for the previous quarter listing the expenditures made by LaunchAbility of the funds paid to LaunchAbility under this Contract; and (b) a year-to-date report of the expenditures made by LaunchAbility of the funds paid to LaunchAbility under this Contract (and if this Contract is terminated prior to its expiration, LaunchAbility shall provide such reports as set forth above for the period prior to the expiration for which reports have not been provided, and such obligation shall survive the termination hereof; and the obligation to provide the reports for the last quarter of this Contract shall survive the expiration of this Contract). On request of the City at any time, LaunchAbility shall make its records available for inspection and review by the City or its designated representative(s). Within ninety (90) days of the end of LaunchAbility's fiscal year, LaunchAbility shall provide the City with a financial statement signed by the Chairman of LaunchAbility's Board of Directors (or other person acceptable to the City) and audited by an independent Certified Public Accountant, setting forth LaunchAbility's income, expenses, assets and liabilities, and such obligation shall survive the termination or expiration of this Contract.

All application materials, financial information, quarterly (or other) reports, any other information described herein or required hereunder, and general correspondence with the City must be submitted to the City in electronic format to the City email address specified in the application packet. Additionally, the City may require that such materials, information, reports, and correspondence also be provided to the City in writing (e.g., a hard-copy, non-electronic format).

VIII. INDEPENDENT CONTRACTOR

In performing services under this Contract, the relationship between the City and LaunchAbility is that of independent contractor, and the City and LaunchAbility by the execution of this Contract do not change the independent status of LaunchAbility. LaunchAbility is an independent contractor, and no term or provision of this Contract or action by LaunchAbility in the performance of this Contract is intended nor shall be construed as making LaunchAbility the agent, servant or employee of the City, or to create an employer-employee relationship, a joint venture relationship, or a joint enterprise relationship, or to allow the City to exercise discretion or control over the manner in which LaunchAbility performs the services which are described in this Contract.

IX. NON-ASSIGNABILITY; NO THIRD-PARTY BENEFIT

LaunchAbility may not and shall have no authority to assign, transfer, or otherwise convey by any means whatsoever this Contract or any of the rights, duties or responsibilities hereunder without obtaining the prior written approval of the City, and any attempted assignment, transfer, or other conveyance of this Contract without such approval shall be null and void and be cause for immediate termination of this Contract by the City.

This Contract is solely for the benefit of the parties hereto and is not intended to and shall not be deemed to create or grant any rights, contractual or otherwise, to any third person or entity.

X. NO PARTNERSHIP, JOINT VENTURE, OR JOINT ENTERPRISE

Nothing contained in this Contract shall be deemed to constitute that the City and LaunchAbility are partners or joint venturers with each other, or shall be construed or be deemed to establish that their relationship constitutes, or that this Contract creates, a joint enterprise.

XI. NON-DISCRIMINATION

During the term of this Contract, LaunchAbility agrees that it shall not discriminate against any employee or applicant for employment because of race, age, color, sex or religion, ancestry, national origin, place of birth, or handicap.

XII. LEGAL COMPLIANCE; CONTRACT SUBJECT TO LAWS; RECITALS

LaunchAbility shall observe and abide by, and this Contract is subject to, all applicable federal, state, and local (including the City) laws, rules, regulations, and policies (including, without limitation, the Charter and Ordinances of the City), as the same currently exist or as they may be hereafter amended. The above and foregoing recitals to this Contract are true and correct and incorporated herein and made a part hereof.

XIII. VENUE; GOVERNING LAW

In the event of any action under this Contract, exclusive venue for all causes of action shall be instituted and maintained in Dallas County, Texas. The parties agree that the laws of the State of Texas shall govern and apply to the interpretation, validity and enforcement of this Contract; and, with respect to any conflict of law provisions, the parties agree that such conflict of law provisions shall not affect the application of the law of Texas (without reference to its conflict of law provisions) to the governing, interpretation, validity and enforcement of this Contract.

XIV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

XV. NO WAIVER; RIGHTS CUMULATIVE

The failure by either party to exercise any right or power, or option given to it by this Contract, or to insist upon strict compliance with the terms of this Contract, shall not constitute a waiver of the terms and conditions of this Contract with respect to any other or subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all the terms hereof. The rights or remedies under this Contract are cumulative to any other rights or remedies, which may be granted by law.

XVI. NOTICES

All notices, communications and reports, required or permitted under this Contract shall be personally delivered or mailed to the respective parties using certified mail, return receipt requested, postage prepaid, at the addresses shown below. The City and LaunchAbility agree to provide the other with written notification within five (5) days, if the address for notices, provided below, is changed. Notices by personal delivery shall be deemed delivered upon the date delivered; mailed

notices shall be deemed communicated on the date shown on the return receipt. If no date is shown, the mailed notice shall be deemed communicated on the third (3rd) day after depositing the same in the United States mail.

The City's address:

Matthew McCombs
Assistant to the City Manager
Town of Addison
5300 Belt Line Road
Dallas, Texas 75254

LaunchAbility' address:

Kathryn Parsons
LaunchAbility
4350 Sigma, Suite 100
Farmers Branch, Texas 75244

XVII. SEVERABILITY

The terms of this Contract are severable, and if any section, paragraph, clause, or other portion of this Contract shall be found to be illegal, unlawful, unconstitutional or void for any reason, the balance of the Contract shall remain in full force and effect and the parties shall be deemed to have contracted as if said section, paragraph, clause or portion had not been in the Contract initially.

XVIII. AUTHORITY TO EXECUTE CONTRACT

The undersigned officers and/or agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Contract on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions or other act extending such authority have been duly passed and are now in full force and effect.

XIX. ENTIRE AGREEMENT

This Contract represents the entire and integrated contract and agreement between the City and LaunchAbility and supersedes all prior negotiations, representations and/or agreements, either written or oral. This Contract may be amended only by written instrument signed by both the City and LaunchAbility

IN WITNESS THEREOF, the parties hereto have caused this Contract to be signed by their proper corporate officers as first above specified, and have caused their proper corporate seal to be hereto affixed the day and year first above written.

TOWN OF ADDISON, TEXAS

LAUNCHABILITY

By: _____
Lea Dunn, City Manager

By: _____
Kathryn Parsons, Chief Executive Officer